CHILDREN'S PRODUCT SAFETY ACT
Act 219 of 2000

AN ACT to prohibit the use of certain unsafe children's products; to prohibit child care facilities from using or having on the facility premises certain unsafe children's products; to prescribe powers and duties of certain departments, officers, and agencies; to provide for the promulgation of rules to carry out the provisions of this act; and to prescribe penalties for violation of the provisions of this act.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

The People of the State of Michigan enact:

722.1051 Short title.

Sec. 1. This act shall be known and may be cited as the "children's product safety act".

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1052 Definitions.

Sec. 2. As used in this act:

(a) "Child" means an individual less than 18 years old.

(b) "Child care facility" means a child care center, child care organization, or child caring institution as defined in section 1 of 1973 PA 116, MCL 722.111.

(c) "Children's product" means a product, including, but not limited to, a full-size crib, non-full-size crib, toddler bed, bed, car seat, chair, high chair, booster chair, hook-on chair, bath seat, gate or other enclosure for confining a child, play yard, stationary activity center, carrier, stroller, walker, or infant swing that is designed or intended to come into contact with the child while the product is used. Notwithstanding any other provision of this section, a product is not a "children's product" for purposes of this act if either of the following applies:

(*i*) It may be used by or for the care of a child under 6 years old, but it is designed or intended for use by the general population or segments of the general population and not solely or primarily for use by a child or for the care of a child.

(*ii*) It is a medication, drug, or food or is intended to be ingested.

(d) "CPSC" means the consumer product safety commission created by the consumer product safety act, Public Law 92-573, 86 Stat. 1207.

(e) "Commercial user" means a person who deals in children's products or who holds himself or herself out as having knowledge or skill relating to children's products, or a person who is in the business of remanufacturing, retrofitting, selling, leasing, subletting, or otherwise placing in the stream of commerce children's products.

(f) "Crib" means a bed or containment designed to accommodate an infant.

(g) "Department" means the department of consumer and industry services.

(h) "Full-size crib" means a full-size crib as defined in section 1508.3 of title 16 of the code of federal regulations regarding the requirements for full-size cribs.

(i) "Non-full-size crib" means a non-full-size crib as defined in section 1509.2 of title 16 of the code of federal regulations regarding the requirements for non-full-size cribs.

(j) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1055 Unsafe children's product; placement in stream of commerce prohibited.

Sec. 5. A commercial user shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet, or otherwise place in the stream of commerce, on or after January 1, 2001, an unsafe children's product.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1056 Unsafe children's product; criteria; crib; retrofit; notice; compliance.

Sec. 6. (1) A children's product is unsafe for purposes of this act if it meets 1 or more of the following criteria:

(a) The children's product does not conform to all federal laws and regulations setting forth standards for the children's product.

(b) The children's product has been recalled for any reason by a federal agency, the product's manufacturer, distributor, or importer; the recall has not been rescinded; and the children's product has been listed by the CPSC as a recalled product.

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(c) A federal agency has issued a warning that a specific children's product's intended use constitutes a safety hazard and the warning has not been rescinded.

(2) For the purposes of this act, a crib is unsafe if it does not conform to the standards endorsed or established by the CPSC.

(3) An unsafe children's product, as determined under subsection (2), may be retrofitted if the retrofit has been approved by the federal agency issuing the recall or warning or the federal agency responsible for approving the retrofit if it is different from the federal agency issuing the recall or warning. A retrofitted children's product may be sold if it is accompanied at the time of sale by a notice declaring that it is safe to use. The notice shall include all of the following:

(a) A description of the original problem that made the recalled children's product unsafe.

(b) A description of the retrofit that explains how the original problem was eliminated and declaring that it is now safe to use.

(c) The name and address of the commercial user who accomplished the retrofit certifying that the work was done along with the name and model number of the product retrofitted. The commercial user is responsible for ensuring that the notice is present with the retrofitted product at the time of sale.

(4) A retrofit does not need to comply with this act if either of the following applies:

(a) The retrofit is for a children's product that requires assembly by the consumer, the approved retrofit is provided with the product by the commercial user, and the retrofit is accompanied at the time of sale by instructions explaining how to apply the retrofit.

(b) The seller of a previously unsold children's product accomplishes the repair prior to sale and the repair is approved or recommended by a federal agency.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1060 List of unsafe children's products; maintenance; availability; providing list to inspectors of child care facility and persons providing child care.

Sec. 10. (1) The department shall maintain a comprehensive list of children's products that have been identified as meeting any of the criteria set forth in sections 5 and 6. The department shall make the comprehensive list available to the public at no cost and shall post it on the internet and encourage links.

(2) The department shall provide a copy of the list of unsafe children's products to any individual required by the department to inspect a child care facility for the purpose of issuing or renewing a license or certificate of registration.

(3) The department may work with the family independence agency to provide a copy of the list of unsafe children's products to each person providing child care.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1061 Commercial user; sale of recalled product; exception.

Sec. 11. A commercial user is not in violation of this act if the specific recalled product sold was not on the department's list 30 days before the sale.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1065 Child care facility; prohibition; exception; notice; posting list; determination by operator of facility.

Sec. 15. (1) A child care facility may not use or have on the premises, on or after July 1, 2001, an unsafe children's product. This section does not apply to an antique or collectible children's product if it is not used by, or accessible to, a child in the child care facility.

(2) The department shall notify child care facilities, on an ongoing basis, of the provisions of this act and of unsafe children's products in plain, nontechnical language that enables each child care facility to effectively inspect children's products and identify unsafe children's products.

(3) The operator of a child care facility shall conspicuously post on the premises an updated copy of the list of recalled children's products provided by the department.

(4) The operator of a child care facility may use information provided by the CPSC to determine if a children's product is a recalled product for the purposes of this act.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1070 Revocation or refusal to renew or issue facility license or registration.

Sec. 20. The department may revoke or refuse to renew the license or certificate of registration of a child care facility or refuse to issue a license or certificate of registration if the licensee, registrant, or applicant does not comply with a section of this act.

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History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1075 Violation by commercial user as misdemeanor; penalty.

Sec. 25. A commercial user who willfully and knowingly violates section 5 is guilty of a misdemeanor punishable by a fine of not more than $100.00 or by imprisonment for not more than 90 days, or both.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1080 Enforcement action; jurisdiction.

Sec. 30. The attorney general or prosecuting attorney in the county in which a violation of this act occurred may bring an action in a court of competent jurisdiction to enforce the provisions of this act.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

722.1085 Additional remedies.

Sec. 35. Remedies available under this act are in addition to any other remedies or procedures under any other provision of law that may be available to an aggrieved party.

History: 2000, Act 219, Imd. Eff. June 27, 2000.

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